



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

PIEDMONT REGIONAL OFFICE  
4949-A Cox Road, Glen Allen, Virginia 23060  
(804) 527-5020 FAX (804) 698-4178  
[www.deq.virginia.gov](http://www.deq.virginia.gov)

Ann F. Jennings  
Secretary of Natural and Historic Resources

David K. Paylor  
Director  
(804) 698-4000

James Golden  
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
DOSWELL LIMITED PARTNERSHIP  
FOR  
DOSWELL COMBINED CYCLE FACILITY  
EPA ID No. VAD988225025**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Doswell Limited Partnership, regarding the Doswell Combined Cycle Facility located in Ashland Virginia, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Doswell" means Doswell Limited Partnership, a corporation authorized to do business in Virginia. Doswell is a "person" within the meaning of Va. Code § 10.1-1400.
6. "Facility" means the Doswell Combined Cycle Facility located at 10098 Old Ridge Road, Ashland, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
11. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
14. "SQG" means a small quantity generator, and prior to April 8, 2018, means a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f). As of April 8, 2018, it means a hazardous waste generator that generates any of the following amounts in a calendar month: greater than 100 kilograms (220 pounds) but less than 1,000 kilograms (2200 pounds) of non-acute hazardous waste, and less than or equal to 1 kilogram (2.2 pounds) of acute hazardous waste, and less than or equal to 100 kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e). *See* 40 CFR § 260.10.

15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
18. "VSQG" means very small quantity generator of hazardous waste, a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 pounds) of non-acute hazardous waste; and (2) 1 kilogram (2.2 pounds) of acute hazardous waste listed in §261.31 or §261.33(e) of this chapter; and (3) 100 kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e) of this chapter.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Doswell Limited Partnership owns the Facility in Ashland, Virginia. The Facility is operated by Ethos Energy. The Facility is a power generation plant that distributes power to a grid system which contributes to a power pool and covers several states on the East Coast. Operations at the Facility are subject to the Virginia Waste Management Act and Regulations.
2. Doswell is identified in the RCRA Information System database as a Small Quantity Generator (SQG) of hazardous waste, or generating between 100 kilograms and 1,000 kilograms of non-acute hazardous waste per calendar month. Doswell was issued EPA ID No. VAD988225025 for the Facility.
3. At the Facility, Doswell generates various hazardous and non-hazardous wastes. The following lists the solid wastes, that are generated and accumulated at the Facility, followed by the corresponding waste code:

##### **Hazardous Wastes**

Spent Aerosol Cans - D001

Sandblast Media (episodically generated) – D008

Solids Containing Flammable Liquids (Methyl Ethyl Ketone); episodically generated- D035, F005

Waste Acetone (episodically generated)– U002, D001

Waste Flammable Liquids (lab pack; episodically generated) - D001

Amines, Corrosive (lab pack; episodically generated) – D002

Metal Powder, Flammable (lab pack; episodically generated) – D001, D011, F003

##### **Non-Hazardous / Non-RCRA Wastes**

General Facility Trash  
Sandblast Media  
Petroleum Impacted Soil and Debris (if generated)  
Oily Rags Laundered for Reuse  
Electronic Waste (E-Waste) – Recycled  
Fryquel (synthetic oil)

**Universal Wastes**

Spent Lamps  
Spent Batteries

4. On July 30, 2020, DEQ staff initiated a hazardous waste Nonfinancial Records Review – Offsite Records Review inspection (NRR-OCM) of the Facility by requesting compliance documentation via electronic mail. Due to the COVID-19 pandemic, DEQ staff performed a desk-top style review in lieu of an on-site inspection. The NRR-OCM was conducted to evaluate Facility compliance with applicable Virginia Hazardous Waste Management Regulations (VHWMR). Doswell representatives submitted the requested documentation on August 10, 2020.
5. On August 18, 2020, DEQ staff conducted a telephone interview with representatives for Doswell and requested additional documentation. The additional documentation was received on August 21, 2020 and August 24, 2020. DEQ staff observed the following:
  - a. At the time of the inspection, Doswell was operating as a Very Small Quantity Generator (VSQG) of hazardous waste, or generating less than 100kg (or 220 pounds) of non-acute hazardous waste per calendar month. According to Doswell's submitted documentation, an episodic hazardous waste generation event occurred from April 2018 through July 2018 that elevated Doswell's hazardous waste generator status to SQG. Doswell was evaluated for compliance for the applicable requirements for a VSQG for hazardous waste generated from July 30, 2017 through March 2018 and from August 2018 through July 2020. Doswell was evaluated for hazardous waste manifesting and disposal management for a SQG from April 2018 through July 2018. Doswell did not utilize a Uniform Hazardous Waste Manifest for the shipment of hazardous waste aerosols (waste code D001) on June 27, 2018 and hazardous waste sandblast material (waste code D008) that was transported for disposal on July 13, 2018. These hazardous wastes were offered for transport and shipped utilizing a bill of lading.
  - b. Doswell made a hazardous waste shipment on June 27, 2018 (hazardous waste aerosol cans, D001) and on July 13, 2018 (hazardous waste sandblast material, D008). The two shipments occurred while Doswell was operating as a SQG of hazardous waste. The shipments were made utilizing a Heritage Crystal Clean (HCC) bill of lading with HCC's hazardous waste transporter EPA ID number ILR000130062. The noted receiving designated facility for the hazardous waste was identified on the two bill of ladings as Heritage Crystal Clean LLC in

Pennsauken, New Jersey (EPA ID ILR000130062). The HCC Pennsauken location is assigned EPA ID number NJR986656650. The HCC New Jersey facility is not notified as a RCRA permitted Treatment, Storage, and Disposal Facility (TSDF). Doswell was unable to provide final disposition documentation of the two shipments of hazardous waste.

- c. Doswell did not provide a land disposal restriction notification with the two hazardous waste shipments on the Heritage Crystal Clean bill of lading dated June 27, 2018 and July 13, 2018.
  - d. Doswell is currently notified in the RCRA Information database as a SQG of hazardous waste. Staff from the Facility stated and provided documentation that the facility operates a majority of the time as a VSQG of hazardous waste. Based on the statements and documentation provided by representatives, Doswell did not properly determine its hazardous waste generator category during the 2018 facility outage event.
6. On September 28, 2020, the Department issued Notice of Violation No. 2020-09-PRO-601 to Doswell Limited Partnership, citing them for the violations observed during the July 30, 2020 inspection.
  7. 40 CFR §262.20(a)(1) as referenced in 9 VAC 20-60-262, states, “a generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A.”
  8. 40 CFR §262.10(a)(3) as referenced in 9 VAC- 20-60-262, states, “a generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in §260.10 of this chapter, or not otherwise authorized to receive the generator's hazardous waste.”
  9. 40 CFR § 268.7(a)(2) as referenced in 9 VAC 20-60-268, states “If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file.”
  10. 40 CFR § 262.13(a) as referenced in 9 VAC 20-60-262, states in part “Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month.”
  11. October 23, 2020, Doswell responded in writing and requested an informal meeting with DEQ to discuss the NOV and the next steps. Additionally, Doswell provided an explanation

for how the sand blast material was tested using a different method than had been used in the past, that a new contractor had been hired, and due to human oversight plant personnel did not apply Doswell's waste management procedure to determine the correct generator category.

12. November 18, 2020, DEQ staff and Doswell's representatives participated in a phone conference. Doswell agreed to develop a corrective action plan and submit the plan to DEQ.
13. Based on the results of the July 30, 2020 inspection, the November 18, 2020 phone conference, and the documentation received on August 21, 2020 and August 24, 2020, the Board concludes that Doswell violated 9 VAC 20-60-262 incorporating by reference 40 CFR §262.20(a)(1) and 40 CFR §262.10; 9 VAC 20-60-268 incorporating by reference 40 CFR §268.7(a)(2); and 9 VAC 20-60-262 incorporating by reference 40 CFR § 262.13(a), as described in paragraphs C(4) through C(12) above.
14. Doswell has implemented corrective action and submitted documentation that verifies that the violations described above have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Doswell Limited Partnership, and Doswell Limited Partnership agrees to pay a civil charge of **\$13,000** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Doswell Limited Partnership shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Doswell shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Doswell for good cause shown by Doswell, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Doswell admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact, and conclusions of law contained herein.
4. Doswell consents to venue in the Circuit Court of Chesterfield County for any civil action taken to enforce the terms of this Order.
5. Doswell declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein, except that Doswell reserves its right to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments of this Order issued by the Board without the consent of Doswell. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Doswell to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Doswell does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Doswell shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Doswell shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Doswell shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Doswell intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Doswell.
- 11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Doswell has completed all of the requirements of the Order;
  - b. Doswell petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Doswell.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Doswell from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. The undersigned representative of Doswell certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Doswell to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Doswell.
- 13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no



representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

14. By its signature below, Doswell voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

---

James J. Golden  
Department of Environmental Quality  
Director, Piedmont Regional Office

.....Remainder of the page left intentionally blank.....

Doswell Limited Partnership voluntarily agrees to the issuance of this Order.

Date: 22 Nov 2021 By: [Signature], SVP  
(Person) (Title)  
Doswell Limited Partnership

State of New York

City/County of New York

The foregoing document was signed and acknowledged before me this 22<sup>nd</sup> day of  
November, 2021, by Carolyn Murff, SVP, on behalf of  
Doswell Limited Partnership.

[Signature]  
Notary Public

01LL6314810  
Registration No.

My commission expires: 11/17/2022

Notary seal:

